

**LAW OFFICES OF DALE K. GALIPO**

Dale K. Galipo (SBN 144074)  
dalekgalipo@yahoo.com  
Cooper Alison-Mayne (SBN 343169)  
cmayne@galipolaw.com  
21800 Burbank Boulevard, Suite 310  
Woodland Hills, CA 91367  
Phone: (818) 347-3333

*Attorneys for Plaintiff Dorothea Heimbach*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DOROTHEA HEIMBACH,

Plaintiff,

vs.

STANISLAUS COUNTY, JUSTIN  
CAMARA, and ZA XIONG,

Defendants.

2:23-cv-01887-DJC-CSK

*Assigned to:*  
District Judge Daniel J. Calabretta

**PLAINTIFF'S MOTION IN LIMINE  
#4 TO EXCLUDE REFERENCES  
TO CRIMINAL HISTORY AND  
PRIOR BAD ACTS**

FPTC Date: December 18, 2025  
Time: 1:30 PM  
Location: Courtroom 7

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2 PLEASE TAKE NOTICE that on December 18, 2025, in Courtroom 7 of the  
3 United States District Court for the Eastern District of California, at 501 I Street,  
4 Sacramento, CA 95814, Plaintiff, DOROTHEY HEIMBACH, hereby moves in  
5 limine for an order excluding evidence of prior criminal acts or prior bad acts of  
6 Anthony Silva. This Motion is based on this Notice of Motion, the attached  
7 Memorandum of Points and Authorities, the records and files of this Court, and  
8 upon such other oral and documentary evidence as may be presented at the time of  
9 the hearing.

10  
11 Dated: December 11, 2025

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13 By: /s/ Cooper Alison-Mayne  
14 Dale K. Galipo  
15 Cooper Alison-Mayne  
16 *Attorneys for Plaintiff Dorothey Heimbach*  
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## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

This civil rights case arises from the death of Anthony Silva following his arrest by Stanislaus County Sheriff's Deputies Justin Camara and Za Xiong on October 10, 2022. During the arrest, Deputies Camara and Xiong used force that fractured Mr. Silva's cervical spine, rendering him a quadriplegic. Mr. Silva died eleven months later from complications of that injury.

Plaintiff anticipates that Defendants will attempt to introduce evidence of Mr. Silva's criminal history for the purpose of prejudicing the jury. Such evidence is irrelevant to whether Defendants' use of force was objectively reasonable, unfairly prejudicial, and constitutes improper character evidence. Accordingly, it should be excluded.

### **II. ARGUMENT**

Use of force must be evaluated solely from the perspective of what the officer knew at the moment force was used. *Graham v. Connor*, 490 U.S. 386, 396 (1989). Courts "cannot consider evidence of which the officers were unaware—the prohibition against evaluating officers' actions 'with the 20/20 vision of hindsight' cuts both ways." *Glenn v. Washington Cnty.*, 673 F.3d 864, 873 n.8 (9th Cir. 2011).

Relevant evidence is only that "evidence having [a] tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Fed. R. Evid. 401. Evidence that is not relevant is not admissible. Fed. R. Evid. 402.

To the extent Defendants were unaware of any aspect of Mr. Silva's criminal history at the time of the incident, that evidence is irrelevant to whether their use of force was objectively reasonable.

Even if any probative value exists, it is substantially outweighed by the danger of unfair prejudice. Fed. R. Evid. 403. "Unfair prejudice" means "undue

tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” *United States v. Hankey*, 203 F.3d 1160, 1172 (9th Cir. 2000).

There is a substantial danger that the jury might incorrectly assume that because Mr. Silva had a criminal record, the force used against him was justified—or that his life was worth less. Admission of this evidence risks “turning the trial of the defendants into a trial of the plaintiff.” *Wilson v. City of Chicago*, 6 F.3d 1233 (7th Cir. 1993). The central question in this case is whether Defendants’ conduct was reasonable, not whether Mr. Silva was a good person.

“Evidence of a person’s character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.” Fed. R. Evid. 404(a)(1). Introduction of Mr. Silva’s criminal record would invite the jury to draw an improper inference—that because Mr. Silva engaged in bad conduct on other occasions, Defendants were justified in using force against him. This is precisely the type of character-based reasoning Rule 404 prohibits.

### III. CONCLUSION

For the foregoing reasons, Plaintiff requests the Court grant this motion and exclude all evidence, testimony, argument, or reference to Mr. Silva’s criminal record and prior bad acts.

Dated: December 11, 2025

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By: /s/ Cooper Alison-Mayne  
 Dale K. Galipo  
 Cooper Alison-Mayne  
 Attorneys for Plaintiff Dorothy Heimbach